



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of: Kanag'Iq Construction Company, Inc.

File: B-228589

Date: November 5, 1987

## DIGEST

1. The submission of a below-cost bid does not by itself constitute a basis for challenging an otherwise valid contract award, but rather raises the issue of the bidder's ability to perform the contract, the affirmative determination of which is not reviewed by the General Accounting Office absent a showing that the determination may have been made fraudulently or in bad faith or that definitive responsibility criteria in the solicitation were not met.
2. Whether payment and performance bond requirements, which are for implementation after contract award, have been met is a matter of contract administration and is not for consideration under General Accounting Office Bid Protest Regulations.

## DECISION

Kanag'Iq Construction Company, Inc., protests the award to Colville Contractors of a contract for miscellaneous hospital repairs under invitation for bids (IFB) No. 102-IFB-87-0025, issued by the Department of Health and Human Services. Kanag'Iq contends that the contracting officer should have rejected the awardee's bid because the bid price, which was considerably below the other bids and the government estimate, was unreasonably low. Kanag'Iq also argues that the contract should be terminated because Colville has not provided acceptable payment and performance bonds within the required 10 calendar days after award.

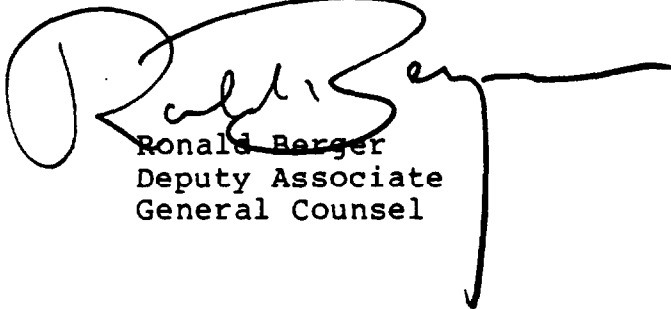
We dismiss the protest.

The submission and acceptance of a below-cost bid is not legally objectionable. Wylie Mechanical, B-228695, Oct. 27, 1987, 87-2 CPD ¶ \_\_\_\_\_. Rather, the submission of such a bid raises the question of the bidder's ability to perform the

contract at the offered price and this is a matter of responsibility for the contracting officer to determine prior to award. Keyes Fibre Co., B-225509, Apr. 7, 1987, 87-1 CPD ¶ 383. In making the award to Colville, the contracting officer found that firm to be responsible, since before a contracting officer can make an award he must make an affirmative determination of responsibility. See Federal Acquisition Regulation, 48 C.F.R. § 9.105-2(a)(1) (1986); Universal Shipping Co., Inc., B-223905.2, Apr. 20, 1987, 87-1 CPD ¶ 424. Our Office does not review a contracting officer's affirmative determination of responsibility absent a showing that the determination may have been made fraudulently or in bad faith or that definitive responsibility criteria in the solicitation have not been met. Wylie Mechanical, B-228695, supra. Neither has been alleged or is evident here.

Concerning Kanag'Iq's second basis of protest, questions regarding an awardee's fulfillment of payment and performance bond requirements, which are to be met after contract award, are matters of contract administration and are not for consideration under our Bid Protest Regulations, which provide only for our review of protests concerning the propriety of contract awards. See 4 C.F.R. Part 21 (1987); Quality Construction--Request for Reconsideration, B-224021.3, Nov. 19, 1986, 86-2 CPD ¶ 588.

The protest is dismissed.



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